

Message Text

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FM AMCONSUL MONTERREY
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INFO AMEMBASSY MEXICO
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AMCONSUL GUADALAJARA
AMCONSUL HERMOSILLO
AMCONSUL MATAMOROS
AMCONSUL MAZATLAN
AMCONSUL MERIDA
AMCONSUL NUEVO LAREDO
AMCONSUL TIJUANA

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TAGS: CASC, MX

SUBJ: OFFICIAL REPRESENTATIONS TO MEXICAN AUTHORITIES IN CASES
OF MALTREATMENT OF AMERICAN PRISONERS

REF: STATE 080101

1. THE PROCEDURES FOLLOWED BY CONSULATE GENERAL MONTERREY RE
ABOVE SUBJECT ARE SET FORTH BELOW, WITH PARAGRAPH DESIGNATIONS
PARALELLING THOSE OF REFTEL:

A. CONGEN REPORTS EACH DETENTION OR ARREST BY CABLE TO DEPT. INFO
EMBASSY. SUBSEQUENT IMPORTANT EVENTS ALSO REPORTED BY CABLE.

B. (1) WE DO BRING TO THE ATTENTION OF MEXICAN AUTHORITIES ALL
CASES IN WHICH A DETAINED OR ARRESTED AMERICAN CITIZEN HAS REQUESTED
ACCESS TO A U.S. CONSUL AND HAS BEEN DENIED SUCH ACCESS. IN SUCH
CASES WE CITE THE PROVISIONS OF THE U.S.-MEXICAN CONSULAR CONVENTION
AND THE VIENNA CONVENTION AS THE AUTHORITY FOR OUR PROTEST. IF,
HOWEVER, THE DETAINED OR ARRESTED AMERICAN HAS NOT REQUESTED
ACCESS TO A U.S. CONSUL, WE DO NOT BELIEVE THAT A PROTEST OF LACK
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OF NOTIFICATION CAN BE BASED ON EITHER CONVENTION. NEVERTHELESS,

WE DO CALL SUCH CASES TO THE ATTENTION OF THE APPROPRIATE MEXICAN AUTHORITIES, CITING A NOTE DATED JULY 26, 1974 FROM THE FOREIGN OFFICE TO THE EMBASSY WHICH STATED THAT INSTRUCTIONS HAD BEEN GIVEN TO COMPETENT MEXICAN AUTHORITIES TO NOTIFY IMMEDIATELY THE APPROPRIATE U.S. CONSULAR OFFICER IN ALL CASES OF DETAINED OR ARRESTED AMERICANS WE HAVE HAD SOME SUCCESS BY QUOTING THE PERTINENT EXCERPT OF THIS NOTE. MOREOVER, THE REGIONAL COORDINATOR OF THE FEDERAL JUDICIAL POLICE RECENTLY INFORMED US, IN REPLY TO A LACK OF NOTIFICATION PROTEST, THAT HE HAS INSTRUCTED THE FEDERAL JUDICIAL POLICE IN THE THREE STATES UNDER HIS JURISDICTION (NUEVO LEON, COAHUILA AND TAMAULIPAS) TO NOTIFY THE CONGEN PROMPTLY OF ALL FEDERAL DETENTION OR ARREST CASES INVOLVING AMERICANS. WE HAVE HAD ENCOURAGING EVIDENCE

THAT THESE INSTRUCTIONS ARE BEING CARRIED OUT. IT SHOULD BE NOTED, HOWEVER, THAT SOMETIMES THE MEXICAN AUTHORITIES ARE NOT AWARE THAT THE DETAINED PERSON IS A U.S. CITIZEN. THIS MOST FREQUENTLY HAPPENS WHEN THE DETAINED PERSON HAS A MEXICAN SOUNDING NAME, GIVES A MEXICAN HOME ADDRESS AND HAS BEEN LIVING IN MEXICO AS A MEXICAN, EVEN THOUGH HE MAY HAVE DUAL NATIONALITY. THE FACT THAT THE DETAINEE HAS A CLAIM TO

U.S. CICIZENSHIP IS OFTEN HEARD FOR THE FIRST TIME WHEN A CONSULAR OFFICER VISITS A PRISON ON OTHER CASES (SEE PARAGRAPH 3 BELOW).

B. (2) WE DO CALL TO THE ATTENTION OF MEXICAN AUTHORITIES ALL COMPLAINTS BY AMERICAN DETAINEES OF MISTREATMENT AT THE TIME OF THEIR DETENTION OR SUBSEQUENTLY. ACTUALLY, ALL SUCH COMPLAINTS THAT WE HAVE RECEIVED RELATE TO MALTREATMENT BY POLICE DURING THE INTERROGATION PROCESS ALMOST IMMEDIATELY FOLLOWING DETENTION. WE HAVE NOT RECEIVED COMPLAINTS OF MALTREATMENT BY JAIL OR PENITENTIARY OFFICIALS. IF WE DID RECEIVE SUCH COMPLAINTS, WE WOULD, OF COURSE INVESTIGATE AND MAKE REPRESENTATIONS AS APPROPRIATE.

B. (3) PRETRIAL DETENTIONS IN THIS CONSULAR DISTRICT LASTING MORE THAN A YEAR ARE REPORTED TO THE EMBASSY FOR INCLUSION IN ITS PERIODIC NOTE TO THE FOREIGN OFFICE. IF A PRISONER DOES NOT WANT HIS CASE REPORTED, WE ABIDE BY PRISONER'S REQUEST.

B. (4) WE DO MAKE REPRESENTATIONS REGARDING SUCH COMPLAINTS WHENEVER WE ARE SATISFIED THAT THE COMPLAINT HAS SUBSTANCE.
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C. WE AUTOMATICALLY PROTEST ALL CASES IN WHICH A DETAINED OR ARRESTED AMERICAN HAS REQUESTED AND BEEN DENIED CONSULAR ACCESS, CITING THE RELEVANT CONVENTIONS. AN INFO COPY OF THE PROTEST LETTER IS FORWARDED TO THE EMBASSY AND DEPARTMENT. IN OTHER CASES, WE CALL ATTENTION OF THE APPROPRIATE MEXICAN AUTHORITIES TO THE FAILURE TO NOTIFY, CITING THE JULY 26, 1974 NOTE MENTIONED ABOVE. CONGEN IS AWARE THAT CASES WHICH CANNOT BE SATISFACTORILY

RESOLVED AT THE LOCAL LEVEL MAY BE REFERRED TO THE EMBASSY FOR REPRESENTATIONS AT A HIGHER LEVEL OF GOM.

D. WE ARE FOLLOWING THE PROCEDURES SET FORTH IN THIS SECTION OF REFTEL, INCLUDING FREQUENT MONITORING OF SITUATION.

E. CONGEN MAINTAINS MASTER FILE OF ALL CASES CONCERNING ALLEGED BRUTALITY, DENIAL CONSULAR ACCESS AND LACK CONSULAR NOTIFICATION. IN ADDITION, CONGEN MAINTAINS CHRONOLOGICAL TICKLER FILE. EXACT DETAILS ARE RECORDED IN INDIVIDUAL SUBJECT FILES.

F. IN CASES WHERE BRUTALITY HAS BEEN ALLEGED, CONGEN HAS NOT ARRANGED FOR MEDICAL EXAMINATION TO BE COMPLETED. WE ARE NOT AWARE OF ANY INSTRUCTION OR AUTHORITY FOR SUCH EXAMINATION. CONGEN DOES NOT HAVE FUNDS TO PAY FOR SUCH MEDICAL EXAMINATIONS. MOREOVER, WHEN SUCH BRUTALITY IS ALLEGED, IT NEARLY ALWAYS CONCERN MALTREATMENT WHICH CANNOT BE PHYSICALLY VERIFIED AFTER THE FACT, SUCH AS USE OF ELECTRIC CATTLE PROD, DURNKING HEAD IN WATER, SEVERE AND PAINFUL ARM TWISTING AND BLOWS WHICH LEAVE NO TELLTALE BRUISES. WHEN SUCH BRUTALITY HAS BEEN ALLEGED AND IS OF NATURE THAT CAN BE CHECKED WE EXAMINE PENITENTIARY MEDICAL RECORDS TO ASCERTAIN THAT THE AMERICAN HAD A MEDICAL COMPLAINT UPON HIS ENTRY TO THE PENITENTIARY. IF CONGEN IS TO OBTAIN OUTSIDE MEDICAL EXAMINATIONS, WE WOULD APPRECIATE AN INSTRUCTION THIS EFFECT SINCE IT WILL INVOLVE EXPENDITURE OF FUNDS, WHICH ARE LIMITED BY USUAL BUDGET CRUNCYH.

2. ALTHOUGH SOME ARRESTED AMERICANS HAVE COMPLAINED ABOUT HIGH ATTORNEY FEES, WE HAVE HAD ONLY TWO CASES OF ACTUAL BILKING. IN ONE CASE SO-CALLED ATTORNEY IS NOW IN JAIL IN U.S. ON NARCOTIC CHARGES AND WE INFORMED COURT OF ALLEGED BILKING. IN OTHER CASE WE BROUGHT MATTER TO ATTENTION ATTORNEY GENERAL STATE COAHUILA, AND MOST RECENTLY TO ATTENTION EXECUTIVE ASSITANT GOVERNOR OF THE UNCLASSIFIED

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STATE OF COAHUILA, ALTHOUGH WE BELIEVE THAT CASE CAN BE RESOLVED ON LOCAL LEVEL, IT HAS BEEN BROUGHT TO ATTENTION OF DEPT. AND EMBASSY ON INFORMAL BASIS.

3. ALTHOUGH THIS QUESTION IS NOT RAISED IN REFTEL, WE MENTION IT FOR GUIDANCE. SINCE OUR CONSULAR DISTRICT IS NEAR THE BORDER, MANY PERSONS ARRESTED ARE DUAL NATIONALS. IF THE PERSON ARRESTED IS A DUAL NATIONAL RESIDING IN MEXICO AS A MEXICAN CITIZEN, WE HAVE NOT PROTESTED LACK OF NOTIFICATION OR ALLEGED BRUTALITY. IN SUCH CASES WE FEEL THAT MEXICAN NATIONALITY IS PARAMOUNT. WHILE THIS INTERPRETATION SEEMS CLEAR REGARDING CONSULAR NOTIFICATION, IT SLIGHTLY LESS CLEAR CONCERNING ALLEGED BRUTALITY. IF A DUAL CITIZEN HAS ACCEPTED MEXICAN JURISDICTION BY RESIDENCE IN MEXICO AS MEXICAN CITIZEN, SHOULD WE PROTEST ALLEGED BRUTALITY WHEN INTERNATIONAL

LAW APPARENTLY WOULD HOLD HIS MEXICAN CITIZENSHIP TO BE PARAMOUNT?

GUIDANCE WOULD BE APPRECIATED.

LAMBERT

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